

TITLE 326 AIR POLLUTION CONTROL BOARD

FINDINGS AND DETERMINATION OF THE COMMISSIONER PURSUANT TO IC 13-14-9-8 AND DRAFT RULE #00-184(APCB)

DEVELOPMENT OF NEW RULES CONCERNING THE INCORPORATION OF NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR OIL AND NATURAL GAS PRODUCTION; NATURAL GAS TRANSMISSION AND STORAGE; AND PUBLICLY OWNED TREATMENT WORKS

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language to incorporate by reference Title 40 of the Code of Federal Regulations, Part 63 (40 CFR 63), Subpart HH, which applies to oil and natural gas production facilities, Subpart HHH, which applies to natural gas transmission and storage facilities, and Subpart VVV, which applies to publicly owned treatment works. A public hearing has been scheduled before the air pollution control board for consideration of preliminary adoption of these rules.

CITATIONS AFFECTED: 326 IAC 20-30.
326 IAC 20-31.
326 IAC 20-32.

AUTHORITY: IC 13-14-8; IC 13-14-9-8; IC 13-17-3-4; IC 13-17-3-11.

STATUTORY REQUIREMENTS

IC 13-14-9-8 recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that there is no anticipated benefit from the first and second public comment periods, IDEM may forego these comment periods and proceed directly to the public hearing and board meeting at which the draft rule is considered for preliminary adoption. Two (2) opportunities for public comment (at the public hearings prior to preliminary and final adoption of the rule) remain under this procedure.

If the commissioner makes the determination of no anticipated benefit required by IC 13-14-9-8, the commissioner shall prepare written findings and publish those findings in the Indiana Register prior to the board meeting at which the draft rule is to be considered for preliminary adoption, and include them in the board packet prepared for that meeting. This document constitutes the commissioner's written findings pursuant to IC 13-14-9-8.

The statute provides for this shortened rulemaking process if the commissioner determines that:

- (1) the rule constitutes:
 - (A) an adoption or incorporation by reference of a federal law, regulation, or rule that:
 - (i) is or will be applicable to Indiana; and
 - (ii) contains no amendments that have a substantive effect on the scope or intended application of the federal law or rule;
 - (B) a technical amendment with no substantive effect on an existing Indiana rule; or
 - (C) a substantive amendment to an existing Indiana rule, the primary and intended purpose of which is to clarify the existing rule; and

(2) the rule is of such nature and scope that there is no reasonably anticipated benefit to the environment or the persons referred to in IC 13-14-9-7(a)(2) from:

(A) exposing the rule to diverse public comment under section IC 13-14-9-3 or IC 13-14-9-4;
(B) affording interested or affected parties the opportunity to be heard under IC 13-14-9-3 or IC 13-14-9-4; and

(C) affording interested or affected parties the opportunity to develop evidence in the record collected under IC 13-14-9-3 and IC 13-14-9-4.

BACKGROUND

The 1990 Amendments of the Clean Air Act require the United States Environmental Protection Agency (U.S. EPA) to regulate major sources of hazardous air pollutants. A major source is defined as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit as a whole, considering controls, ten (10) tons per year or more of any single hazardous air pollutant or twenty-five (25) tons per year or more of any combination of hazardous air pollutants. Hazardous air pollutants are listed by U.S. EPA because they are either known or suspected to cause cancer or other serious health effects. There are currently one hundred eighty-eight (188) hazardous air pollutants listed in the Clean Air Act. On July 16, 1992 (57 FR 31576), U.S. EPA published a list of major source categories of hazardous air pollutant emissions. The Clean Air Act requires U.S. EPA to develop emission standards, referred to as national emission standards for hazardous air pollutants (NESHAP), that require the application of air pollution reduction measures based on maximum achievable control technology (MACT) for the listed source categories. This state rulemaking would incorporate by reference the following three (3) NESHAPs.

On June 17, 1999 (64 FR 32610), U.S. EPA adopted final rules to regulate hazardous air pollutant emissions from new and existing oil and natural gas production, Subpart HH, and natural gas transmission and storage facilities, Subpart HHH. U.S. EPA estimates that approximately sixty-nine thousand (69,000) megagrams, or sixty-seven thousand nine hundred thirteen (67,913) tons per year of hazardous air pollutants are emitted from facilities in these source categories. The primary hazardous air pollutants emitted by the facilities covered by the final standards include benzene, toluene, ethyl benzene, mixed xylenes, and n-hexane. U.S. EPA estimates that these rules will reduce hazardous air pollutant emissions from major sources in the oil and natural gas production source category by seventy-seven percent (77%) and from major sources in the natural gas transmission and storage source category by ninety-five percent (95%). No major sources have been identified in Indiana.

The oil and natural gas production Subpart establishes equipment leak standards and controls for the following emission points:

- (1) Process vents at certain size glycol dehydration units.
- (2) Tanks with flashing emission potential.
- (3) Certain fugitive emission sources at natural gas processing plants with the following exemptions:
 - (A) Actual annual average flowrate of natural gas to the glycol dehydration unit is less than eighty-five thousand (85,000) standard cubic meters day.
 - (B) Actual average emissions of benzene from the glycol dehydration unit process vent to the atmosphere are less than ninety-hundredths (0.90) megagram per year.
 - (C) the emission point is located at a black oil facility.

The rules require continuous parameter monitoring control device operation, and record keeping and reporting for both Subparts.

The natural gas transmission and storage facilities Subpart applies to owners and operators of natural gas transmission and storage facilities that transport or store natural gas prior to entering the pipeline to

a local distribution company or to a final end user, and that are major sources of hazardous air pollutant emissions as determined using the maximum natural gas throughput calculation. A compressor station that transports natural gas prior to the point of custody transfer, or to a natural gas processing plant is considered part of the oil and natural gas production source category. This Subpart requires emission controls at process vents at certain size glycol dehydration units with the following exemptions:

- (1) The actual annual average flow of gas to the glycol dehydration unit is less than two hundred eighty-three thousand (283,000) standard cubic meters per day.
- (2) Actual average emissions of benzene from the glycol dehydration unit process vents to the atmosphere are less than ninety-hundredths (0.90) megagram, or eighty-eight hundredths (0.88) tons per year.

On October 26, 1999 (64 FR 57572), U.S. EPA adopted final rules to regulate the emissions from new and existing publicly owned treatment works (POTW). With this final rule, U.S. EPA is requiring air pollution controls on a new or reconstructed treatment plant at a POTW (industrial and non-industrial) that is a major source of hazardous air pollutants. The primary hazardous air pollutants emitted from sources in this category vary among individual facilities. Typical hazardous air pollutants that may be emitted from a facility include xylenes, methylene chloride, toluene, ethylbenzene, chloroform, tetrachloroethylene, benzene, and naphthalene.

This rule will reduce hazardous air pollutant emissions from new or reconstructed publicly owned treatment works which are major sources of air emissions. If the publicly owned treatment works was constructed on or after December 1, 1998, then it must comply on startup. If it was reconstructed after December 1, 1998 then the source must be in compliance as of April 26, 2000. At this time IDEM has not identified any applicable sources.

A publicly owned treatment works is considered an industrial POTW if any industrial major source complies with applicable NESHAP requirements by using the treatment and controls located at a POTW. This publicly owned treatment works is considered to be a major source regardless of whether it meets the applicable criteria of a non-industrial POTW. A very small number of publicly owned treatment works fall under the industrial subcategory. For existing industrial POTW treatment plants, U.S. EPA is not requiring additional controls. These facilities, which accept and treat regulated waste streams, should already be in compliance with treatment and control requirements specified by the appropriate industrial NESHAP. However, U.S. EPA is clarifying that these industrial publicly owned treatment works are legally responsible under the Clean Air Act Amendments of 1990. A new or reconstructed industrial publicly owned treatment works must comply with the non-industrial standards, or with the treatment standards for all appropriate industrial NESHAP, whichever is more stringent.

A new or reconstructed non-industrial publicly owned treatment works is required to either include air pollution controls on certain wastewater treatment units, or demonstrate that pollution prevention has produced an equivalent emission reduction.

The rule requires some specific control measures. The publicly owned treatment works must use covers and controls on the primary treatment units or show compliance by calculating a fraction emitted value equivalent to using covers and controls on primary treatment units. The fraction emitted value is calculated monthly by dividing the sum total of hazardous air pollutant emissions by the sum total of hazardous air pollutant loading to the wastewater treatment plant. Facilities must demonstrate an annual rolling average of the fraction emitted of fourteen-thousandths (0.014) or less from the primary treatment units. To comply with the cover and control option of this rule, U.S. EPA is requiring continuous monitoring of the operation of the control devices using automated instrumentation to measure and record operating parameters appropriate for the control device technology. U.S. EPA is

also requiring that the publicly owned treatment works develop a monitoring program which will demonstrate continuous compliance.

FINDINGS

The commissioner of IDEM has prepared findings regarding rulemaking on the incorporation of national emission standards for hazardous air pollutants (NESHAP) for natural gas transmission and storage, oil and natural gas production, and publicly owned treatment works as required by federal rule. These findings are prepared under IC 13-14-9-8 and are as follows:

- (1) This rule is the direct adoption of federal requirements that are applicable to Indiana and it contains no amendments that have a substantive effect on the scope or intended application of the federal rule.
- (2) Indiana is required by federal law to adopt National Emission Standards for Hazardous Air Pollutants (NESHAPs) as established by the United States Environmental Protection Agency.
- (3) The public will benefit from prompt adoption of this rule, because it will reduce hazardous air pollutants from any new or reconstructed oil and natural gas production facilities, natural gas transmission and storage facilities, and publicly owned treatment works.
- (4) I have determined that under the specific circumstances pertaining to this rule, there would be no benefit to the environment or to persons to be regulated or otherwise affected by this rule from the first and second public comment periods.
- (5) The draft rule is hereby incorporated into these findings.

Lori F. Kaplan
Commissioner
Indiana Department of Environmental Management

ADDITIONAL INFORMATION

Additional information regarding this action may be obtained from Chrystal Amr, Rule Development Section, Office of Air Management, (317) 234-1203 or (800) 451-6027, press 0, and ask for extension 4-1203 (in Indiana).

DRAFT RULE

SECTION 1. 326 IAC 20-30 IS ADDED TO READ AS FOLLOWS:

Rule 30. Oil and Natural Gas Production

326 IAC 20-30-1 Oil and natural gas production; applicability; incorporation by reference of federal standards

Authority: IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to owners and operators of emission points that are located at oil and natural gas production facilities as provided in 40 CFR 63.760, 64 FR 32628 (June 17, 1999)*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart HH, 64 FR 32628 (June 17, 1999)*, national emission standards for hazardous air pollutants from oil and natural gas production facilities.

***Copies of the Code of Federal Regulations (CFR) and Federal Register (FR) referenced may be obtained from the Government Printing Office, Washington, D.C. 20402 and are available for copying at the Indiana Department of Environmental Management, Office of Air Management, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-30-1*)**

SECTION 2. 326 IAC 20-31 IS ADDED TO READ AS FOLLOWS:

Rule 31. Natural Gas Transmission and Storage

326 IAC 20-31-1 Natural gas transmission and storage; applicability; incorporation by reference of federal standards

Authority: IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to owners and operators of natural gas transmission and storage facilities as provided in 40 CFR 63.1270, 64 FR 32648 (June 17, 1999)*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart HHH, 64 FR 32648 (June 17, 1999)*, national emission standards for hazardous air pollutants from natural gas transmission and storage facilities.

***Copies of the Code of Federal Regulations (CFR) and Federal Register (FR) referenced may be obtained from the Government Printing Office, Washington, D.C. 20402 and are available for copying at the Indiana Department of Environmental Management, Office of Air Management, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-31-1*)**

SECTION 3. 326 IAC 20-32 IS ADDED TO READ AS FOLLOWS:

Rule 32. Publicly Owned Treatment Works

326 IAC 20-32-1 Publicly owned treatment works; applicability; incorporation by reference of federal standards

Authority: IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to the owner or operator of publicly owned treatment works as provided in 40 CFR 63.1580, 64 FR 57572 (October 26, 1999)*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart VVV, 64 FR 57572 (October 26, 1999), national emission standards for hazardous air pollutants: publicly owned treatment works.

***Copies of the Code of Federal Regulations (CFR) and Federal Register (FR) referenced may be obtained from the Government Printing Office, Washington, D.C. 20402 and are available for copying at the Indiana Department of Environmental Management, Office of Air Management, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana 46204. (Air Pollution Control Board; 326 IAC 20-32-1)**

Notice of First Meeting/Hearing

Under IC 4-22-2-24, IC 13-14-8-1, IC 13-14-8-2, and IC 13-14-9, notice is hereby given that on October 4, 2000 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room B, Indianapolis, Indiana, the Air Pollution Control Board will hold a public hearing on new rules 326 IAC 20-30, concerning oil and natural gas production facilities, 326 IAC 20-31, concerning natural gas transmission and storage facilities, and 326 IAC 20-32, concerning publicly owned treatment works.

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed new rules. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed at this hearing may be found in the April 1, 1996 Indiana Register, page 1710 (19 IR 1710).

Additional information regarding this action may be obtained from Chrystal Amr, Rule Development Section, Office of Air Management, (317) 234-1203 or (800) 451-6027, press 0, and ask for extension 4-1203 (in Indiana). If the date of this hearing is changed, it will be noticed in the Change of Notice section of the Indiana Register.

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

*Attn: David Weir, ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015*

or call (317) 233-1785. TDD: (317) 232-6565. Speech and hearing impaired callers may also contact the agency via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of Air Management, Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor East, Indianapolis, Indiana and are open for public inspection.